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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/465,747 06/06/95 BROWN

C DAKO-2/CONT

HM12/0427

INTELLECTUAL PROPERTY GROUP  
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NEW YORK NY 10022-4834

EXAMINER

MOSHER, M

ART UNIT	PAPER NUMBER
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1641

33

DATE MAILED:

04/27/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. <b>08/465,747</b>	Applicant(s) <b>Brown</b>
Examiner <b>Mosher</b>	Group Art Unit <b>1641</b>

Responsive to communication(s) filed on 3/7/00

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

Claim(s) 54-57 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 54-57 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1641

### **DETAILED ACTION**

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1641, Examiner Mosher.

#### ***Continued Prosecution Application***

The request filed on 3/7/2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/465,747 is acceptable and a CPA has been established. An action on the CPA follows.

As indicated in the Interview Summary attached to the paper 30, NO AMENDMENT WAS FILED ON FEBRUARY 19, 1999 IN THIS APPLICATION. Therefore no amendment has been entered.

#### ***Claim Rejections - 35 USC § 112***

Claim 54 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for virus-like particles comprising VP1 and VP2, does not reasonably provide enablement for virus-like particles comprising VP1 in the absence of VP2, for reasons of record in papers 27 and 30.

#### ***Claim Rejections - 35 USC § 102***

Claim 55 is rejected under 35 U.S.C. 102(b) as being anticipated by Ozawa et al (Journal of Biological Chemistry 263:10922-10926, 1988), for reasons of record in papers 27 and 30.

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***Claim Rejections - 35 USC § 103***

Claims 54 and 57 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Young et al (5,508,186), for reasons of record in papers 27 and 30.

In making the following rejections, claims 54 and 57 are denied the benefit of the filing date of priority application NL 8902301 because the application does not adequately describe or teach how to make virus-like particles as claimed, for reasons of record in papers 27 and 30.

Claims 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Wood et al with any of Sisk et al, Cotmore et al, or Ozawa et al (T), for reasons of record in papers 27 and 30.

Claims 54 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kajigaya et al in view of French et al and any of Sisk et al, Cotmore et al, or Ozawa et al (T), for reasons of record in papers 27 and 30.

***Conclusion***

This is a CPA of applicant's earlier Application No. 08/465,747. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1641

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary E. Mosher, Ph.D. whose telephone number is (703) 308-2926. The examiner can normally be reached on Monday - Thursday and alternate Fridays from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, James Housel, can be reached on (703) 308-4027. The fax phone number for this Group is now (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

April 24, 2000

*Mary E. Mosher*  
MARY E. MOSHER  
PRIMARY EXAMINER  
GROUP 1600

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